

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

## ORDER

Before the Court is Defendant Delvecchio Dundee Theus ("Theus") August 16, 2013 Demand for Bill of Particulars and Proof of Claim ("the Demand"). (Dem. for Bill of Particulars, ECF No. 56.) First, Theus seeks "an exposition of facts" supporting the March 28, 2013 indictment against him for being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). (Dem. for Bill of Particulars at 2.) Second, Theus argues that Congress did not constitutionally enact § 922(g)(1) and seeks an order requiring the Government to "describe specifically and with clarity" the procedure by which Congress enacted it. (Dem. for Bill of Particulars at 2-6.) For the following reasons, the Demand is DENIED.

Under Rule 7(f) of the Federal Rules of Criminal Procedure, a trial judge may order a bill of particulars "to inform the defendant of the nature of the charge against him with sufficient precision to enable him to prepare for trial."

United States v. Kindness, No. 03-20433-BV, 2004 WL 784516, at \*1 (W.D. Tenn. Mar. 29, 2004) (citing United States v. Birmley, 529 F.2d 103, 108 (6th Cir. 1976)). Such a decision is within the sound discretion of the trial court. United States v. Salisbury, 983 F.2d 1369, 1375 (6th Cir. 1993).

In the Demand, Theus does not offer any reason the indictment is insufficient for him to prepare for trial, and correctly concedes that the indictment is "sufficient to advise the accused of the charges against him." (Dem. for Bill of Particulars, ECF No. 56.) There is no basis for the assertion that the indictment is insufficiently definite. Thues' Demand for a Bill of Particulars is DENIED.

Thues' Demand for a Proof of Claim argues that the statute underlying the indictment, 18 U.S.C. § 922(g)(1), is not binding law. (Demand for Bill of Particulars, ECF No. 56.) This assertion is meritless. There is no basis for Theus' argument that the statute was enacted in violation of Constitutional requirements. His Demand for a Proof of Claim is DENIED.

So ordered this 20th day of August, 2013.

s/ Samuel H. Mays, Jr.  
SAMUEL H. MAYS, JR.  
UNITED STATES DISTRICT JUDGE